

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 2967 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?- No

2. To be referred to the Reporter or not?- No

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3. Whether Their Lordships wish to see the fair copy of the judgement? - No

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?- No

5. Whether it is to be circulated to the Civil Judge?
- No

CYRIL DAHYABHAI DABHI 0

Versus

STATE OF GUJARAT

Appearance:

MR PB MAJMUDAR for Petitioner

MR KC SHAH, ADDL.PUBLIC PROSECUTOR for Respondent No. 1

MR KK VASAVADA for Respondent No. 2

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 25/03/96

ORAL JUDGEMENT

Rule. Learned Government Counsel Mr.K.C.Shah for respondent no.1-State and learned Counsel Mr. K.K.Vasavada for respondent no.2 waives the service of

Rule.

The dispute centres round a motor vehicle. The petitioner had purchased a motor car bearing registration No.GJ-6-A-1402 having chasis no. 357926. The said vehicle was purchased by him from one Sanjeev Pandit. Later on, it appeared that, respondent no.2 had filed a complaint regarding the theft of his car bearing registration No.GBW-2838 which was stolen on December 20, 1994. The police had acted upon the conclusion that, the seller of the car, Sanjeev Pandit had stolen various vehicles - cars and that, the relevant vehicle was also a stolen one. Under the remanded proceedings, the car has been ordered to be given to the present respondent no.2. Not only this, but the petitioner has been ordered and directed to pay an amount of Rs.2,000/- as the special cost. The petitioner feels aggrieved with the above said orders and hence, the present Criminal Revision Application.

Upon hearing the learned Counsels for the parties and learned Government Counsel Mr.K.C.Shah, it appears very clearly that, there was absolutely, no justification for awarding the special cost in sum of Rs.2,000/-. The said part of the order requires deletion and the same is hereby accordingly deleted.

So far as the question of the custody of the vehicle is concerned, it requires to be appreciated that, the Court was yet awaiting the report from the Forensic Science Laboratory (FSL). This report is a must for ascertaining the correct number on the chasis which appears to have been tampered with. Therefore, the second prayer for the custody of the vehicle though in favour of the petitioner is not recognised, at this juncture, it is ordered and directed that the question regarding the custody would be examined by the Court below, upon the application to be made by the petitioner, after the receipt of the report from FSL. If any such application is presented by the petitioner, the same shall be heard, decided and disposed of, by the Court below, after affording a reasonable opportunity of being heard to the parties, taking into consideration the report of the FSL, also.

Thus, the present Criminal Revision Application succeeds in part and the same is hereby partly allowed, as indicated above. Rule is made absolute in the above said terms.
